

When a motor fuel vendor delivers B11 and #2 high sulfur together it is blending motor fuel to arrive at B5. In order to make this blend, the vendor must be licensed as a motor fuel distributor and a blender. See 35 ILCS 505/3. (This is a GIL).

March 22, 2006

Dear Xxxxx:

This letter is in response to your letter dated March 2, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I was contacted by a prospective customer wanting to use B5 (5% soy blend) in their high sulfur fuel. That is the highest soy blend percent that the engine manufacturer will warranty the motor on their equipment. At a B5 rate, this would increase the cost of their fuel. What we proposed was to sell them a B11 (11% soy blend) high sulfur on a split load with straight #2 high sulfur. This would give them the B5 high sulfur blend that they wanted and also allow them to take advantage of the tax savings of the B11.

At the time of delivery, both fuels would be invoiced on separate tickets. Taxes would be paid on all straight #2 high sulfur fuels. All B11 blended high sulfur fuels would not be charged the 6.25% sales tax. Both fuels would be delivered in a split load fashion with a semi-tractor trailer. Both fuels would be pumped into the same storage tank off the semi-truck

We wanted to be sure that what we are proposing to our prospective customer is within the tax laws.

DEPARTMENT'S RESPONSE

Under Section 3 of the Motor Fuel Tax Law, a motor fuel blender must obtain a license as a motor fuel distributor as well as a blender's permit. 35 ILCS 505/3. Any person who acts as a blender in violation of Section 3 of this Act or who having transported reportable motor fuel within Section 7b of this Act fails to make the return required by that Section, is guilty of a Class 4 felony. When a motor fuel vendor delivers B11 and #2 high sulfur together it is blending motor fuel to arrive at B5. In order to make this blend, the vendor must be licensed as a distributor and a blender as stated above. Under the Motor Fuel Tax Law, the vendor has delivered B5. As a result, the fuel is taxed at the sales tax rate applicable to B5.

The only way the sale could be taxed as a separate sale of B11 and #2 high sulfur would be if the purchaser were a licensed distributor and blender of motor fuel. In that case, the vendor can sell the B11 and the #2 high sulfur as separate motor fuels, and take advantage of the sales tax exemption on the B11. The purchaser would then be the blender of the motor fuels and would have to pay a bond, file returns and schedules as required by the Motor Fuel Tax law, and be subject to audit.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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